IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 7058 of 2007(M)

PETITIONER:

A.T.ROOPENDRAN,
S/O.SUKUMARAN, AGED 39 YEARS, 'BALMORAL',
P.O.TEMPLE GATE, THALASSERY.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

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1. BANK OF BARODA, THALASSERY BRANCH,
REPRESENTED BY ITS PRINCIPAL OFFICER AND
SRI.BRANCH MANAGER.

2. S.V.RMABHADRAN,
AUTHORISED OFFICER, DY.REGIONAL MANAGER,
BANK OF BARODA, THALASSERY.

BY ADV.SRI.DEVAN RAMACHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No. 7058 OF 2007-M

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Dated this the 2nd day of March, 2007.

JUDGMENT

Having heard the learned counsel for the petitioner and the Bank quite elaborately on the contention that the SARFAESI proceedings are unsustainable, I am satisfied that no grounds are made out in support of the challenge. The mere fact that the officer of the bank would have made submissions before the civil court, cannot tie down the bank when it takes recourse to the SARFAESI proceedings, particularly when the debtors owe money to the creditor bank. Faced with this situation, the learned counsel for the petitioner pointed out that the petitioner is only one of the partners of the firm and sought for relief to let the entire outstandings be wiped off in instalments and directing the bank to consider waiver of any portion of penal interest etc.

In the aforesaid circumstances, this writ petition is

disposed of directing that the petitioner will be given an opportunity of hearing by the bank on claims of certain adjustments and also for waiver of certain portion of interest. However, this will be on condition that the petitioner immediately remits rupees seventy-five thousand on or before the 28th of March, 2007. If such remittance is made and a representation, as stated above, is made and if the petitioner continues to remit at the rate of Rs.75,000/- per month payable on or before the 25th of every month commencing from April, 2007 and wipes off the entire outstandings as are now covered by the SARFAESI proceedings against the petitioner, including costs and incidentals or such lesser amount as the Bank will fix, following the consideration of the matter as afore-directed, the distress action will be dropped.

The writ petition is disposed of in the above terms.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-